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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,980	01/13/2004	John A. Leahey	396/488	2276

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EXAMINER

THEISEN, DOUGLAS J

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/755,980

Applicant(s)

LEAHEY, JOHN A.

Examiner

Douglas J. Theisen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17 is/are allowed.
- 6) ☒ Claim(s) 1,2,7,11 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 041904.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not include a description that the plurality of ridges is parallel with the long side of the rectangular housing as claimed in claim 15. Fig. 4 shows that ridges 25 are parallel.

### ***Claim Objections***

3. Claims 7, 15, and 16 are objected to because of the following informalities: In claim 7 it is suggested that "medium" be changed to "media" to be consistent with the use of "media" in part e) in claim 1. In claims 15 and 16 it is suggested that "ribs" be changed to "ridges" to be consistent with the description on page 10, lines 9-19. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 18 recites the limitations “the inlet tubing connector”, “the first end”, “the outlet tubing connector”, and “the second end”. There is insufficient antecedent basis for these limitations in the claim.

7. Claim 19 recites the limitation “the tubing connectors” in line 1. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 20 recites the limitations “the tubing connectors” and “the first and second ends”. There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 2, 7, 11, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent no. 4,525,182 to Rising et al. Rising describes a filter comprising a) a base member (second housing portion 14) having an outer perimeter, one or more vent holes (vents 30 and 32) and a fluid inlet chamber (space 26); b) a cap member (first housing portion 12) having an outer perimeter, an inlet (inlet 20), an outlet (outlet 22), and a fluid outlet chamber; c) generally planar hydrophilic filtration media (hydrophilic membrane 16) mounted between the base member and

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the cap member, separating the inlet chamber and the outlet chamber; d) the perimeters of the base and cap members being sealed together to form a filter housing (filter holder 10), and the filter having a flow path such that fluid passing into the filter housing through the inlet passes through the hydrophilic filtration media before passing out the outlet; e) one piece of hydrophobic vent media (hydrophobic membrane 18) positioned over the one or more vent holes and secured to the base member; and f) the base member having a center section (step 29) and side sections (inner surface 28, portions 40 and 42) forming the inlet chamber, the side sections extending from the center section towards the perimeter of the base member and being formed at an angle of between 2° and about 45° compared to the plane of the hydrophilic filtration media (the inner surface 28 of second housing portion 14 gradually slopes away from the larger space 25 toward the smaller space 27). The base member has a shoulder inside of the perimeter that clamps against the hydrophilic filtration media when the base and cap members are assembled, and a ledge inside of the shoulder, and wherein the side sections of the base member extend between the center section and the ledge. The vent hole is surrounded by a vent media securement shoulder against which the hydrophobic vent medium is secured. The vent hole is positioned generally opposite the inlet. The tubing connectors (inlet 20 and outlet 22) are in line with one another. See Figures 1-6, column 2, lines 36-64, and column 3, line 32 to column 4, line 17.

***Allowable Subject Matter***

11. Claims 12-17 are allowed.

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12. The following is an examiner's statement of reasons for allowance: The reasons for allowance are that the closest prior art, U.S. patent no. 4,525,182 to Rising et al., shows a filter having a base member and a cap member sealed together to form a filter housing, hydrophilic filtration media secured within the housing, the hydrophilic filtration media separating the filter housing into a fluid inlet chamber and a fluid outlet chamber, the filter housing having an inlet and an outlet in fluid communication with the inlet chamber and outlet chamber respectively, the housing being generally flat and rectangular, and the housing being vented through hydrophobic vent media, the base member having sloped walls on interior surfaces providing the inlet chamber with a contoured shape. Rising does not describe an inlet chamber having only one vent. The inlet chamber of Rising has plural vents.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

13. Claims 3-6 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 18 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter: The reasons for indication of allowable subject matter are that the closest prior art, U.S. patent

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no. 4,525,182 to Rising et al., describes a filter comprising a) a base member (second housing portion 14) having an outer perimeter, one or more vent holes (vents 30 and 32) and a fluid inlet chamber (space 26); b) a cap member (first housing portion 12) having an outer perimeter, an inlet (inlet 20), an outlet (outlet 22), and a fluid outlet chamber; c) generally planar hydrophilic filtration media (hydrophilic membrane 16) mounted between the base member and the cap member, separating the inlet chamber and the outlet chamber; d) the perimeters of the base and cap members being sealed together to form a filter housing (filter holder 10), and the filter having a flow path such that fluid passing into the filter housing through the inlet passes through the hydrophilic filtration media before passing out the outlet; e) one piece of hydrophobic vent media (hydrophobic membrane 18) positioned over the one or more vent holes and secured to the base member; and f) the base member having a center section (step 29) and side sections (inner surface 28, portions 40 and 42) forming the inlet chamber, the side sections extending from the center section towards the perimeter of the base member and being formed at an angle of between 2° and about 45° compared to the plane of the hydrophilic filtration media (the inner surface 28 of second housing portion 14 gradually slopes away from the larger space 25 toward the smaller space 27). The base member has a shoulder inside of the perimeter that clamps against the hydrophilic filtration media when the base and cap members are assembled, and a ledge inside of the shoulder, and wherein the side sections of the base member extend between the center section and the ledge. The vent hole is surrounded by a vent media securement shoulder against which the hydrophobic vent medium is secured. The vent hole is positioned generally opposite the inlet. The tubing connectors (inlet 20 and outlet 22) are in line with one another. See Figures 1-6, column 2, lines 36-64, and column 3, line 32 to column 4, line 17.

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Rising does not describe applicant's features of the filter cap and base members each having a generally rectangular shape with two beveled corners, the beveled corners forming a generally triangular region. Rising does not describe applicant's features of the fluid inlet chamber extending only on a first side of the vent media securement shoulder, the base member having an elevation of a second side of the vent media securement shoulder such that the base member elevation fits against the cap member, thereby preventing fluid from flowing into the filter housing on the second side of the vent media securement shoulder. Rising does not describe applicant's features of the vent media securement shoulder further comprising a plurality of locating ribs configured to help center the hydrophobic vent media over the vent hole during assembly of the filter. Rising does not describe applicant's features of the inlet tubing connector facing the first end of the filter housing and the outlet tubing connector facing the second end of the filter housing. Rising does not describe applicant's features of the tubing connectors being space inwardly of the first and second ends of the housing.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Theisen whose telephone number is 571-272-1168. The examiner can normally be reached on Monday, Tuesday, and Wednesday 6:30 until 4:00.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

djt

DUANE SMITH  
PRIMARY EXAMINER

*D - M*  
11-16-05